#### HB 610-FN - AS INTRODUCED

#### 2021 SESSION

### 21-0545 11/04

# HOUSE BILL 610-FN

AN ACT requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, and relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department.

SPONSORS: Rep. Hunt, Ches. 11

COMMITTEE: Commerce and Consumer Affairs

### ANALYSIS

This bill:

I. Requires retail sellers, sale finance companies, small loan lenders, debt adjusters, and money transmitters to license and report through NMLA, and clarifies the filing deadlines for call reports under RSA 397-A.

II. Clarifies the circumstances under which background investigations are conducted for trust executive officers, and provides for removal of directors or officers by the commissioner.

III. Adjusts fees for filings by state chartered institutions.

IV. Requires payment of assessment by institutions seeking approval to dissolve or convert.

V. Establishes minimum interest rates tied to federal funds interest rates set by the Federal Open Market Committee.

VI. Authorizes the department to transmit consumer complaints via email rather than by certified mail.

This bill is a request of the banking department.

.....

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [<del>in brackets and struckthrough.</del>] Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

#### **HB 610-FN - AS INTRODUCED**

#### STATE OF NEW HAMPSHIRE

#### In the Year of Our Lord Two Thousand Twenty One

AN ACT requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, and relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Retail Installment Sales of Motor Vehicles; Definitions; Nationwide  $\mathbf{2}$ Multistate Licensing System and Registry. Amend RSA 361-A:1 by inserting after paragraph VII 3 the following new paragraph:

4 VII-b. "Nationwide Multistate Licensing System and Registry" means a national licensing  $\mathbf{5}$ system and facility developed and maintained by the Conference of State Bank Supervisors and the 6 American Association of Residential Mortgage Regulators, or their successors, for the licensing and 7registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers, 8 and other non-depository financial service licensees, including retail sellers and sales finance 9 companies.

10 2 Licensing of Sales Finance Companies and Retail Sellers Required. Amend the introductory 11 paragraph of RSA 361-A:2, II(a) to read as follows:

12

(a) The application for such license shall be in writing and verified [on a form prescribed 13by the commissioner] through the Nationwide Multistate Licensing System and Registry 14using the Nationwide Multistate Licensing System and Registry form. The application shall 15contain the name of the applicant; the tax applicant's identification number; date of incorporation, if 16incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the trade name, if any, under which the applicant proposes to 17

18conduct such business; and such other pertinent information as the commissioner may require. The 19 application shall include a list of the names and resident addresses of principals and the name of any 20person occupying a similar status or performing similar functions. Each principal shall provide his

21or her social security numbers and shall authorize the commissioner to conduct a background check. 22The applicant shall submit any other information that the commissioner may require including, but 23not limited to, the applicant's form and place of organization, the applicant's proposed method of 24doing business, the qualifications and business history of the applicant and those persons listed in 25the application, and in the case of sales finance companies, the applicant's financial condition and 26history. The applicant shall disclose if any injunction or administrative order has been issued 27against the applicant or any of its principals listed in the application and whether the applicant or 28any of its principals have been convicted of a misdemeanor involving financial services or a financial

#### HB 610-FN - AS INTRODUCED - Page 2 -

1 services-related business, or any fraud, false statements or omissions, theft or any wrongful taking  $\mathbf{2}$ of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of 3 these offenses, or convicted of any felony, prior to the commissioner's approval of such change.

4 3 Retail Installment Sales of Motor Vehicles; Annual Report. Amend RSA 361-A:2-b, I(a)-(c) to  $\mathbf{5}$ read as follows:

6

(a) Each sales finance company licensee shall file, under oath, an annual report [with 7the commissioner] through the Nationwide Multistate Licensing System and Registry on or 8 before March 31 each year concerning operations for the preceding year or license period ending 9 December 31 upon a form prescribed by the commissioner.

10 (b) A person who surrenders, withdraws, or does not renew a license shall file the 11 annual report as required in subparagraph (a), notwithstanding the fact that he or she is not 12licensed on the date that the report is due.

13(c) Each sales finance company shall also file, under oath, its financial statement [with 14the commissioner] through the Nationwide Multistate Licensing System and Registry within 1590 days from the date of its fiscal year end. The financial statement shall be prepared in accordance 16with generally accepted accounting principles and shall include a balance sheet, income statement, 17statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial 18statement is not audited, a certification statement shall be attached and signed by a duly authorized 19officer of the sales finance company. The certification statement shall state that the financial 20statement is true and accurate to the best of the officer's belief and knowledge.

214 New Paragraph; Regulation of Small Loans, Title Loans, and Payday Loans; Definitions. 22Amend RSA 399-A:1 by inserting after paragraph XII the following new paragraph:

23XII-a. "Nationwide Multistate Licensing System and Registry" means a national licensing 24system and facility developed and maintained by the Conference of State Bank Supervisors and the 25American Association of Residential Mortgage Regulators, or their successors, for the licensing and 26registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers, 27and other non-depository financial service licensees, including small loan lenders, title loan lenders 28and payday loan lenders.

29

5 Regulation of Small Loans, Title Loans; and Payday Loans; Application and Fees. Amend the 30 introductory paragraph of RSA 399-A:4, I to read as follows:

31I. Every applicant for licensing under this chapter shall file with the commissioner a written 32verified application through the Nationwide Multistate Licensing System and Registry, using the 33Nationwide Multistate Licensing System and Registry form[, or providing all the information required on the application developed by the Nationwide Multistate Licensing System and Registry 3435which shall include, but is not limited to, the following information:

36 Regulation of Small Loans, Title Loans, and Payday Loans; Reporting and Filing 6 37 Requirements. Amend RSA 399-A:10, I to read as follows:

#### HB 610-FN - AS INTRODUCED - Page 3 -

1 I.(a) Each licensee shall file, under oath, an annual report [with the commissioner] through  $\mathbf{2}$ the Nationwide Multistate Licensing System and Registry on or before March 31 each year 3 concerning its business and operations for the preceding calendar year or license period ending 4 December 31 in the form prescribed by the commissioner.

Each licensee shall also file, under oath, its financial statement [with the  $\mathbf{5}$ (b) 6 commissioner] through the Nationwide Multistate Licensing System and Registry within 90 7days from the date of its fiscal year end. The financial statement shall be prepared in accordance 8 with generally accepted accounting principles and shall include a balance sheet, income statement, 9 statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial 10statement is not audited, a certification statement shall be attached and signed by a duly authorized 11 officer of the licensee. The certification statement shall state that the financial statement is true 12and accurate to the best of the officer's belief and knowledge.

137 New Paragraph; Debt Adjustment Services; Definitions. Amend RSA 399-D:1 by inserting 14after paragraph XXIII the following new paragraph:

15XXIII-a. "Nationwide Multistate Licensing System and Registry" means a national licensing 16system and facility developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, or their successors, for the licensing and 1718registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers, 19and other non-depository financial service licensees, including debt adjusters.

208 Debt Adjustment Services; Application and Fees. Amend the introductory paragraph of RSA 399-D:4, I(a) to read as follows: 21

22To be considered for licensing, each person shall complete and file with the (a) 23department one verified application through the Nationwide Multistate Licensing System and 24Registry, using the Nationwide Multistate Licensing System and Registry form [, or providing all the 25same information required on the application developed by using the Nationwide Multistate 26Licensing System and Registry,] which shall include, but not be limited to, the following information: 279 Debt Adjustment Services; Reporting and Filing Requirements. Amend RSA 399-D:9, I(a) and 28the introductory paragraph of I(b) to read as follows:

29

(a) Each licensee shall file, under oath, an annual report [with the banking department] 30 through the Nationwide Multistate Licensing System and Registry on or before March 31 each 31year concerning operations for the preceding calendar year or license period ending December 31 in 32the form prescribed by the commissioner.

33(b) Each licensee shall also file, under oath, its financial statement [with the commissioner] through the Nationwide Multistate Licensing System and Registry within 90 3435days from the date of its fiscal year end. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification 36

#### HB 610-FN - AS INTRODUCED - Page 4 -

statement shall state that the financial statement is true and accurate to the best of the officer's
 belief and knowledge:

New Paragraph; Licensing of Money Transmitters; Definitions. Amend RSA 399-G:1 by
 inserting after paragraph XVII the following new paragraph:

5 XVII-a. "Nationwide Multistate Licensing System and Registry" means a national licensing 6 system and facility developed and maintained by the Conference of State Bank Supervisors and the 7 American Association of Residential Mortgage Regulators, or their successors, for the licensing and 8 registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers, 9 and other non-depository financial service licensees, including money transmitters.

11 Licensing of Money Transmitters; Application and Fees. Amend the introductory paragraph
of RSA 399-G:4, I(a) to read as follows:

12 (a) To be considered for licensing, each person shall complete and file with the 13 department one verified application through the Nationwide Multistate Licensing System and 14 Registry, using the Nationwide Multistate Licensing System and Registry form[, or providing all the 15 same information required on the application developed by the Nationwide Multistate Licensing 16 System and Registry,] which shall include but not be limited to the following information :

17 12 Licensing of Money Transmitters; License Surrender. Amend RSA 399-G:8, I to read as18 follows:

I. A licensee who ceases to engage in the business of money transmission at any time during a license year for any cause shall surrender such principal license and authorized delegate registrations, if any, and within 15 calendar days of such cessation shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect, and shall file [an annual] any required report pursuant to RSA 399-G:10 [within 15 days of such cessation]. The commissioner may adopt rules, in accordance with RSA 541-A, relative to such notice and the process for surrender.

13 Licensing of Money Transmitters; Reporting and Filing Requirements. Amend RSA 399 G:10, I-V to read as follows:

28I. Each licensee shall [file, under oath, an annual report with the banking department on or 29before March 31 each year concerning operations for the preceding year or license period ending 30 December 31 upon the form prescribed by the department submit to the Nationwide Multistate 31Licensing System and Registry reports of condition, which shall be filed within the time 32prescribed by the Nationwide Multistate Licensing System and Registry, in such form and 33shall contain such information as the Nationwide Multistate Licensing System and Registry may require, including but not limited to the money services business call report. 3435II. Each licensee shall file, under oath, its financial statement [with the commissioner]

through the Nationwide Multistate Licensing System and Registry within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally

# HB 610-FN - AS INTRODUCED - Page 5 -

1	accepted accounting principles with appropriate note disclosures and, unless excepted by an order
2	from the commissioner for hardship reasons, shall be audited by an independent certified public
3	accountant. The financial statement shall include or be accompanied by a calculation that reflects
4	the fiscal year's average daily outstanding money transmissions as defined by RSA 399-G:1, IV in
<b>5</b>	United States dollars. A money transmitter's financial statement shall include:
6	(a) A balance sheet;
7	(b) Income statement;
8	(c) Statement of changes in owners' equity;
9	(d) A cash flow statement; and
10	(e) A statement of net worth.
11	III. The department shall publish its analysis of the information required in the licensee's
12	[annual] <i>call</i> report as a part of the commissioner's annual report.
13	IV. Any money transmitter failing to file either the [annual] call report or the financial
14	statement required by this section within the time prescribed may be required to pay to the banking
15	department a penalty [of]. <i>The penalty shall be</i> \$25 for each calendar day the [annual] <i>call</i> report
16	or financial statement is overdue up to a maximum penalty of <i>\$625 per call report or</i> \$2,500 per
17	[ <del>report or</del> ] <i>financial</i> statement.
18	V. In addition to the [annual] call report and financial statement, the banking department
19	may require such additional regular or special reports as it may deem necessary for the proper
20	supervision of licensees under this chapter.
21	14 Licensing of Money Transmitters; Administration by Commissioner; Rulemaking. Amend
22	RSA 399-G:24, II(c) to read as follows:
23	(c) [Annual] Call reports required by RSA 399-G:10.
24	15 Nondepository Mortgage Bankers, Brokers, and Servicers; Reporting. Amend RSA 397-A:13,
25	V to read as follows:
26	V. Any mortgage banker, mortgage broker, or mortgage servicer failing to file the mortgage
27	call report required by this section within the time prescribed by the Nationwide Multistate
28	Licensing System and Registry may be required to pay to the department a penalty of \$25 for
29	each calendar day the mortgage call report is overdue up to a maximum penalty of \$625 per
30	mortgage call report.
31	16 Organization of State Banks; Application. Amend RSA 383-A:3-305(e)(6) to read as follows:
32	(6) [The commissioner may require] In addition to paying the cost for any
33	examination or investigation of the background and criminal history of any person
34	pursuant to this section, the organizer [to] shall pay the actual costs of each background
35	investigation and criminal history records check.
36	17 Trust Company Act; Number of Directors. Amend RSA 383-C:6-601 to read as follows:
37	383-C:6-601 [Number of] Directors.

#### **HB 610-FN - AS INTRODUCED** - Page 6 -

1 (a) The board of directors of a trust company shall be composed of at least 5 directors. A  $\mathbf{2}$ director need not be a resident of New Hampshire or a citizen of the United States, unless otherwise 3 required by the commissioner in consideration of the trust company's safety and soundness.

(b) Every new director shall submit to a background investigation and criminal 4 history records check, to include submission of financial and other information in  $\mathbf{5}$ accordance with RSA 383-A:3-305(e). A trust company shall submit notice of any material 6  $\mathbf{7}$ change related to the background investigation and criminal history records check of any 8 director or any new information related to the experience, ability, standing, competence, 9 trustworthiness, and integrity of a director that could jeopardize the safe and sound operation of the trust company within 30 days of learning of such change. The cost of any 1011 examination or investigation of the background information and criminal history shall be 12paid by the trust company.

1318 New Section; Trust Company Act; Removal of Directors and Officers by Commissioner. 14Amend RSA 383-C by inserting after section 6-603 the following new section:

15383-C:6-604 Removal of Directors or Officers by Commissioner. In addition to the grounds for 16removal set forth in RSA 383-A:9-902, the commissioner may also remove a director or officer of a 17trust company if, in the opinion of the commissioner, the director or officer does not possess the 18experience, ability, standing, competence, trustworthiness, and integrity to ensure the safe and 19sound operation of the trust company. The commissioner shall act in accordance with the procedure 20described in RSA 383-A:9-902 for any such removal.

2119 Family Trust Company Act; Board of Directors. Amend RSA 383-D:8-801(a) to read as 22follows:

23(a) A family trust company shall have a board of directors, and that board of directors 24must have not less than three members. A director need not be a resident of New Hampshire or a 25citizen of the United States, unless otherwise required by the commissioner in consideration of the 26family trust company's safety and soundness. RSA 383-C:6-601(a) shall not apply to family trust 27companies.

2820 Bank and Credit Unions; Regulatory Approval Procedures; Fee Schedule. Amend RSA 383-29A:6-609 to read as follows:

30 383-A:6-609 Fee Schedule.

31(a) The commissioner shall charge a filing fee to each person for services rendered by 32the department in reviewing a notice or application. Sums collected under this section shall be 33 payable to the state treasurer as restricted revenue and credited, in accordance with the banking 34division's accounting unit designation, to the appropriation for the commissioner. Charges for 35services shall be billed as follows:

36

[(a)] (1) Fee for new state bank or credit union charter: [\$10,000] \$15,000

37

[(b)] (2) Fee for domestication of foreign trust company: \$7,500

#### HB 610-FN - AS INTRODUCED - Page 7 -

1	[(c)] (3) Fee for charter conversion, combination, acquisition, change in control, share
2	exchange, reorganization, or approval of trust powers: \$2,500
3	[(d)] (4) Fee for the dissolution of a trust company: \$2,000
4	[(e)] (5) Fee for a reduction in a depository bank's capital, change in business plan or
<b>5</b>	change in required capital of a trust company, amendment to a state bank's organizational
6	instrument, amendment of a credit union's bylaws, or formation of a subsidiary entity that requires
7	approval of the commissioner: \$500
8	[(f)] (6) Fee for a new branch, loan production office and trust company office: \$500
9	[(g)] (7) Fee for a relocation or termination of a branch, loan production office or trust
10	company office: \$100
11	[(h)] (8) Fee to issue a certificate of existence: \$50
12	[ <del>(i)</del> ] <b>(9)</b> Fee for a reservation or approval of a name or trade name: \$50
13	(b) If at any time the commissioner determines that the cost to complete the
14	investigation or examination of the notice or application has or will exceed the fee set forth
15	in subparagraphs (a)(1)-(9), the commissioner shall cease further review, notify the filer of
16	this determination and advise that the filer may withdraw the notice or application. If the
17	filer elects to withdraw the notice or application pursuant to this paragraph, the
18	commissioner shall refund the filing fee, minus such costs of investigation or examination
19	that been incurred during the Department's review. If the filer informs the commissioner it
20	does not elect to withdraw the notice or application, the commissioner shall continue the
21	review of the notice or application and the filer shall pay the additional investigation or
22	examination costs. The cost of the investigation or examination shall be determined in
23	accordance with the per diem examination charge established in RSA 383:11, I provided,
24	however, that the requirement that no entity shall be charged or pay less than one full day
25	
	shall not apply.

27 after paragraph IV the following new paragraph:

- V. A state chartered institution that is dissolved or converted before the close of a fiscal year, shall be responsible for payment of its pro rata share of the assessment for that fiscal year. Prior to approving the dissolution or conversion of the institution, the commissioner, in the commissioner's discretion, shall either:
- (a) Impose requirements to ensure payment of the assessment after the approval of thedissolution or conversion; or
- 34 (b) Collect payment of the assessment as calculated under paragraph II prior to approval 35 of the dissolution, or if the calculation of the assessment is not yet available and the commissioner 36 determines the last assessment imposed as well as the institution's share of the last assessment 37 imposed, is reflective of the institution's obligation for the current fiscal year, the commissioner may

#### HB 610-FN - AS INTRODUCED - Page 8 -

instead collect payment of the assessment based on a pro rata portion of the last assessment imposedon the institution.

3 22 Depository Bank Act; Banking Business; Loans and Investments. Amend RSA 383-B:34 303(a)(7)(E) to read as follows:

 $\mathbf{5}$ (E) Any depository bank which requires or accepts moneys for deposit in escrow 6 accounts maintained for the payment of taxes or insurance premiums related to loans on property 7secured by real estate mortgages shall credit each escrow account with interest at a [minimum] rate 8 [set for a 6-month period by the commissioner on February 1 and August 1 of each year. The rate 9 shall be one percent below the mean interest rate paid by depository banks on regular savings 10accounts during the applicable period. The commissioner shall post the rate on the department's 11 website] no lower than the highest target federal funds interest rate in the range set by the 12Federal Open Market Committee, minus one percent.

23 Retail Installment Sales of Motor Vehicles; Consumer Inquiries. Amend the introductory
 paragraph of RSA 361-A:4-a, I to read as follows:

I. Consumer complaints naming retail sellers or sales finance companies under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via *electronic mail or* certified or registered mail to the retail seller or sales finance company for response within 10 days of receipt by the department. Retail sellers or sales finance companies shall, within 10 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the banking department. Not later than 30 days following receipt of such complaint, the retail seller or sales finance company shall conduct an investigation of the complaint and either:

22 24 Bank and Credit Unions; Consumer Complaints. Amend RSA 383-A:9-904, I to read as 23 follows:

I. Consumer complaints naming state banks or credit unions, which are filed in writing, shall be forwarded via *electronic mail or* certified mail to the state bank or credit union for response within 10 days of receipt by the department. Not later than 30 days following receipt of such complaint, the state bank or credit union shall conduct an investigation of the complaint and either:

25 Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; Consumer Inquiries.
 30 Amend the introductory paragraph of RSA 397-A:15-a, I to read as follows:

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via *electronic mail or* certified mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the banking department. Not later than 30 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

### HB 610-FN - AS INTRODUCED - Page 9 -

1 26 Regulation of Small Loans, Title Loans, and Payday Loans; Consumer Inquiries. Amend the 2 introductory paragraph of RSA 399-A:12, I to read as follows:

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via *electronic mail or* certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the banking department. Not later than 30 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

9 27 Debt Adjustment Services; Consumer Inquiries. Amend the introductory paragraph of RSA
399-D:11, I to read as follows:

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via *electronic mail or* certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the department. Not later than 30 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

17 28 Licensing of Money Transmitters; Consumer Inquiries. Amend the introductory paragraph
18 of RSA 399-G:12, I to read as follows:

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via *electronic mail or* certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the department. Not later than 30 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

25

29 Effective Date. This act shall take effect 60 days after its passage.

LBA 21-0545 Revised 1/14/21

# HB 610-FN- FISCAL NOTE AS INTRODUCED

AN ACT requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, and relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department.

## FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation, as introduced, has a total fiscal impact of less than \$10,000 in each of the fiscal years 2021 through 2024.

## AGENCIES CONTACTED:

**Banking Department**